

### **REMARKS**

Claims 1-21 are currently pending. Claims 1-21 stand rejected. Claims 1-13 and 19-21 stand rejected as obvious under 35 U.S.C. § 103(a) by U.S. Patent No. 5,774,170 (“Hite”) in view of U.S. Patent No. 5,774,170 (“Byers”). Claims 14-18 stand rejected as obvious under 35 U.S.C. § 103(a) by U.S. Patent No. 5,774,170 (“Hite”) in view of U.S. Patent No. 5,774,170 (“Byers”) and further in view of U.S. Patent Application No. 2003/0221191 (“Khusheim”).

Claim 1 is amended. No new matter has been added; the amendment is supported by the application as originally filed. Reconsideration of the application is respectfully requested in light of the amendment and the following remarks.

#### **Rejection of Claims 1-13, and 19-21 under 35 U.S.C. § 103(a)**

Claims 1-13, and 19-21 stand rejected as obvious under 35 U.S.C. § 103(a) as by U.S. Patent No. 5,774,170 (“Hite”) in view of U.S. Patent No. 5,774,170 (“Byers”).

Applicants respectfully traverse the rejections, however to advance prosecution, Applicants have amended claim 1 in order to clarify the Applicants’ invention. Applicants respectfully submit that the pending claims are patentable over the cited references for at least the following reasons.

Hite discloses delivering and displaying electronic advertising messages within specified programming in some households while simultaneously preventing the display of electronic advertising messages in other households. Hite teaches the wholesale replacement of entire completed commercials. As previously amended, independent claim 1 recites inserting media segments wherein each media segment is not a complete commercial (i.e. a portion of a commercial). As admitted in the Office action, Hite does not disclose this feature of independent claim 1 and relies on Byers to remedy this deficiency in Hite.

Byers teaches a system and method for altering a portion of a digital video image based on a user profile. While the digital video image is partially altered, the insertion of a new image in a spatial portion of a frame is fundamentally different from the inventive features of independent claim 1. The Byers system analyzes a spatial portion of the video image frame to mark an element (image pattern) to be replaced. The system then inserts a

new image over the top of the original element, or removes the original pixels and replaces with new pixels, to create a new image into the video. As explained in Byers:

A replacement image for a product, such as a product that an actor is using in a movie or television show, can be altered for each desired user based upon factors associated with the intended recipient of the video stream.

Byers, Col. 3, ll. 1-4.

The Byers system requires a complex pixel by pixel analysis to mark and define the original element, as well as complex image processing to ensure the overlay image is integrated into the video stream (i.e., special processing if an object obstructs or passes in front of the overlay image, etc.)

Claim 1 recites a system in which media segments are inserted into a completed commercial using time points, not spatial coordinates. Claim 1 includes a matrix-based narrative comprising a plurality of media slots arranged at specific time points within said message campaign. As shown in Figures 3-11 of Applicants' application, the message campaign is constructed using this matrix across a time line in which certain time periods within the message have a variety of options for shots to be assembled. Assembly of a time-based narrative in this matrix structure is fundamentally different than an image processing technique to delineate a spatial segment of a video image frame and replace a portion of the frame with a new image within that same frame.

Applicants respectfully submit that independent claim 1 is patentably distinct from Hite and Byers since neither reference, alone or in combination, disclose each and every feature of claim 1 as arranged in the claim. Applicants submit that dependent claims 2-13 and 19-21 are also patentably distinct by virtue of their dependence on an allowable base claim.

**Rejection of Claims 14-18 under 35 U.S.C. § 103(a)**

Claims 14-18 stand rejected as obvious under 35 U.S.C. § 103(a) as by U.S. Patent No. 5,774,170 ("Hite") in view of U.S. Patent No. 5,774,170 ("Byers") and further in view of U.S. Patent Application No. 2003/0221191 ("Khusheim").

Based on the foregoing remarks and in light of claims 14-18 dependence on allowable base claim 1, Applicants submit that claims 14-18 are patentably distinct from the cited combination.

**CONCLUSION**

In view of the foregoing, Applicants respectfully submit that all the claims are in condition for allowance and request favorable action by the Examiner in the form of a Notice of Allowance.

If, in the Examiner's opinion, a telephonic interview would expedite the favorable prosecution of the present application, the undersigned attorney would welcome the opportunity to discuss any outstanding issues, and to work with the Examiner toward placing the application in condition for allowance.

Respectfully submitted,

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